

# **CAPITAL PLANNING ADVISORY BOARD**

## **Minutes of the Sixth Meeting of the 1999 Calendar Year**

**October 12, 1999**

The sixth meeting of the Capital Planning Advisory Board (CPAB) of the 1999 calendar year was held on Tuesday, October 12, 1999 at 1:00 PM, in Room 327 of the Capitol. Representative Perry Clark, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Perry Clark, Chairman; Bill Hintze, Vice-Chairman; Glenn Mitchell (representing James Codell); Bonnie Howell; Cicely Jaracz Lambert; Ken Walker (representing Norma Northern); Nick Schwendeman; Laurel True; and Senator Ed Worley.

LRC Staff: Pat Ingram, Mary Lynn Collins, Lola Williamson Lyle, and Phillip Smith.

Chairman Clark announced that Mr. Sam Newcomb, Taylor County Circuit Clerk, has been appointed by the Chief Justice to replace Mr. Jim Nealy, who has resigned from the Board. Lola Lyle was also welcomed as a new Staff Analyst for the Board.

Senator Worley's motion to approve the minutes of the September 15 meeting was seconded by Mr. Hintze and passed by voice vote.

Chairman Clark next asked CPAB Staff Administrator Pat Ingram to review the Information Items that were included in the members' folders. Ms. Ingram noted that several information items had been added, or revised, since the mailout. The first item was a report of the capital plan amendments that have been received to date from various agencies (Finance and Administration Cabinet, Department of Military Affairs, Natural Resources and Environmental Protection Cabinet, State Treasurer's Office, and Administrative Office of the Courts).

The second item was a response from the Office of Financial Management and Economic Analysis (OFMEA) regarding questions raised at the last meeting about the proposed recommendation that would transfer from state control certain facilities constructed using state bond funds. The third item was an overview of the new Governor's Office for Technology created by Executive Order 99-1359 to consolidate all aspects of information technology into a single, centralized agency. The fourth item was a

report of funding being provided for the Department for Facilities Management to undertake a feasibility study for the Cabinet for Health Services' psychiatric hospitals. The fifth information item was a report of Dr. Thomas Clark's request to the Appropriations and Revenue Committee for funds for the Department for Libraries and Archives to develop a plan for the modernization of Kentucky's records management function. The final item was a report of a budget hearing held at the Council on Postsecondary Education (CPE) regarding the institutional budget requests, including their capital project proposals.

Chairman Clark said the Board would now resume work on the *1998-2004 Statewide Capital Improvements Plan*, beginning with further discussion of the policy recommendations.

The first proposed recommendation was entitled "Court Facilities Planning, Funding, and Oversight." It read as follows:

The Board endorses proposals of the Judicial Branch which would improve the process of planning, funding, and oversight of court facilities projects and urges that the 2000 General Assembly enact legislation, that the Judicial Branch approve new rules, and that the Administrative Office of the Courts (AOC) develop procedures as needed to implement them. Those proposals, as outlined by Judicial Branch representatives to the Capital Planning Advisory Board on September 15, 1999, are attached.

The Board particularly urges:

- 1) That the detailed analysis (i.e., comprehensive assessment) of existing court space be completed prior to the next six-year capital planning process, and requests that the Judicial Branch provide periodic updates on that analysis to the Board in 2000 and 2001; and
- 2) That AOC establish stringent guidelines that detail and mandate the procedures and standards to be used in designing and constructing new court facilities. These guidelines should recognize that different approaches can be used to address differing needs of rural and urban areas while still providing appropriate court space for each. (For example, small caseloads in some counties probably do not warrant having a full array of separate facilities for both the district and circuit court.) The establishment of such guidelines, with adequate enforcement authority given to AOC and periodically updated, should eliminate the requirement for counties to contract with the National Center for State Courts (NCSC) to review their projects.

Mr. Hintze noted that development of this recommendation had taken a long time and asked whether the Judicial Branch representatives in attendance today – Ms. Lambert and Mr. Schwendeman – had any comments on it. Relative to the last sentence in item #2, Mr. Schwendeman said it is advantageous to be able to point to a national standard when dealing with the local projects. Ms. Lambert said the phrase “should eliminate the requirement for counties to contract with” the NCSC was too strong because AOC may want to continue using the National Center to some extent. Mr. Hintze asked whether Ms. Lambert or Mr. Schwendeman had any alternative wording to suggest.

Senator Worley said he thought it was important to retain the involvement of the NCSC, but that final authority regarding the projects should rest with AOC staff. He said NCSC input had been particularly important to the project in which he had been involved. Mr. Schwendeman said they would like to get the NCSC involved in the projects earlier to confirm the space program before presenting requests to the General Assembly, and then to have the NCSC review circulation and adjacency issues. The National Center might not be used to do the space program analysis, rather it would be used to confirm work done by others. He said the NCSC charges are fairly minimal compared to total project costs.

Chairman Clark suggested that the last sentence of item #2 be deleted. Mr. Hintze made a motion that the proposed recommendation, as amended, be approved; the motion was seconded by Senator Worley and approved by voice vote. Mr. True said he voted no because he believes counties should not be required to contract with the National Center.

The next policy recommendation, entitled “Enhance the Role and Authority of the Department for Facilities Management,” was a revision of the recommendation discussed at the last meeting. The revised version read as follows:

That the Executive Branch work to identify a more pro-active role and increased authority for the Finance and Administration Cabinet / Department for Facilities Management with regard to administration of the state’s overall physical plant and that periodic reports be provided to the Board on the status of this effort. The following items should be specifically addressed:

- u Determination of which state-owned buildings should be managed and administered by the Department (rather than individual agencies), and how the transfer of that responsibility to the Department can be implemented;
- u Development of categories and definitions for use by state agencies in evaluating and reporting the condition of their facilities, and monitoring,

through the use of selective field audits, agency compliance with the use of these categories;

- u Development of a database for use by state agencies to record and track all maintenance projects completed for each state-owned facility; and
- u Establishment of standard and consistent policies to be used by agencies managing state-owned facilities.

The Board encourages that this effort commence immediately so that those changes which can be made without statutory changes or additional funding can be implemented as soon as possible, and so that any necessary statutory and/or funding changes which may be required can be considered for recommendation by the Board for the 2002 General Assembly and the 2002-04 budget process.

The Board recognizes that efforts are already underway relative to the transfer of office buildings currently administered by the Cabinet for Families and Children to the Department for Facilities Management and urges that this process continue and that any additional funding needed by the Department in conjunction with this transfer be provided in the 2000-02 budget.

Ms. Howell said the proposed recommendation provides the Finance and Administration Cabinet with guidelines needed to proceed in this effort; her motion that the recommendation be adopted was seconded by Mr. Hintze and approved by voice vote.

The third policy recommendation, entitled “Consider Transferring Responsibility for Senior Citizens and Child Day Care Centers from the State,” was a revision based on discussion at the last meeting. The revised version read as follows:

That the Governor and General Assembly give serious consideration and review to proposals by the Cabinet for Health Services (CHS) and the Cabinet for Families and Children (CFC) to transfer the senior citizens and child day care centers, constructed with funding from the Human Services Construction Pool, to the local entities operating those facilities.

Ms. Ingram noted that the letter from OFMEA provided as an Information Item addressed this recommendation. Mr. True’s motion to adopt the recommendation was seconded by Senator Worley and approved.

The next proposed recommendation was entitled “Revision of Information Technology Capital System Definition and Threshold.” Ms. Ingram distributed a

replacement for the proposed recommendation in the members' folders. Ms. Ingram said this proposed recommendation was a revision from the last meeting, to more specifically address the proposed statutory language and definition of a system. It read as follows:

That the 2000 General Assembly amend KRS 45.750 to raise the threshold for a "system" to be considered a capital project from \$400,000 to \$1.0 million and to define "information technology system" to mean "any initial purchase or major upgrade of hardware, software, implementation and development services, or digital data products, or any combination of these items, as specified in an administrative regulation to be promulgated by the Governor's Office for Technology, for a specific business purpose," and;

That the 2000 General Assembly amend KRS 7A.010 to include information technology (IT) systems defined as "any initial purchase or major upgrade of hardware, software, implementation and development services, or digital data products, or any combination of these items, as specified in the administrative regulation promulgated pursuant to KRS 45.750," and to establish a cost threshold of \$1.0 million for a system to be considered a capital project for capital planning purposes.

Mr. Hintze asked about using the term "implementation and development services" instead of "consulting and professional services" and said he liked the addition of the language referencing "any initial purchase or major upgrade." Chairman Clark introduced Doug Robinson, Executive Director for the Office of Policy and Customer Relations in the Governor's Office for Technology, to respond to the question. Mr. Robinson said referencing "implementation and development services" was intended to eliminate costs involved in activities prior to implementation of a project. Ms. Howell said this addressed a concern she had expressed at the last meeting. Mr. Walker asked if the implementation and development expenses were intended to include agency staff costs. Mr. Robinson said those costs are reflected in the "Impact on Operating Budget" section of the capital budget request form, not in the project cost.

In response to Mr. Mitchell's question, Mr. Hintze said this change would not be in effect for the upcoming 2000-02 budget process. Mr. Robinson said many agencies already include all of these costs in their capital projects though they are not required by the current definition. Senator Worley's motion to approve the recommendation was seconded by Mr. Hintze and passed by voice vote.

The final policy recommendation, entitled, "Alternatives for Addressing the Need for Additional State Prison Construction," was another revision based on discussion at the last meeting. It read as follows:

That the Executive, Legislative, and Judicial Branches continue to identify and utilize alternatives to incarceration and juvenile detention that are consistent with public safety, in order to reduce the need for the construction of additional prison and juvenile detention facilities; and

That the three branches jointly undertake a study, including the use of outside consultants, to thoroughly examine reasons for the state's actual and projected prison population increases and recommend ways to reduce the projected growth rate.

The Board notes that the state will need to fund approximately \$1.2 billion in prison construction by the year 2014 in order to accommodate a projected deficit of over 16,400 prison beds.

Mr. True asked that figures on operating costs for the additional beds be included in the recommendation. Senator Worley made a motion for approval of this recommendation as amended to include the additional figures. Mr. Mitchell seconded the motion, and it was approved by voice vote.

Chairman Clark said the Board would now begin its consideration of the project recommendations. Ms. Ingram said the two proposed recommendations follow the format used in the last planning process, with one for projects proposed to be financed from state funds and one for projects proposed to be financed from other than state funds.

Ms. Ingram said the state-funded projects recommendation has three sections. The first section states that maintenance of existing state facilities should be the highest priority in the 2000-02 capital budget through funding of various pools (e.g., agency maintenance pools, statutory pools, and postsecondary education's proposed capital renewal and replacement pool). The second section of the proposed recommendation calls for various other specific capital construction and equipment projects to be considered as the highest priorities after maintenance; that list of projects is to be determined by the Board today. The third section of the recommendation supports funding for programs that provide assistance to non-state entities through grants or loans; the recommendation is not for specific funding levels but for reauthorization of unexpended 1998-2000 appropriations and/ or new authorization of funds for 2000-02 based on the utilization of amounts previously provided and documented demands for future funding.

Mr. True asked if the postsecondary education capital renewal pool was only for projects under \$400,000. Mr. Walker said the CPE is proposing that the Capital Renewal Trust Fund be used for maintenance projects, capital renewal projects, infrastructure projects, and building system replacement projects; it would leave open the possibility that a project could cost over \$400,000, but no project would be funded unless it was on the specific listing of eligible projects.

Senator Worley asked whether the university presidents had commented on the CPE staff recommended \$2 for \$1 (institutional to state funds) match at yesterday's budget hearing at the CPE. Mr. Walker said he did not recall exactly what comments had been made. He said maintenance and capital renewal is a significant issue for the institutions, and the \$1 for \$1 match required to access the Deferred Maintenance and Government Mandates Pool this biennium has worked well. The Council is proposing a \$30,000,000 pool of state funds for 2000-02; a \$2 for \$1 match would generate \$90 million for projects, and a \$1 for \$1 match would fund \$60 million of projects. Mr. Walker said reducing the match reduces the number of projects that can be completed.

Senator Worley said he did not believe the Board should recommend a specific matching requirement. He then made a motion, which was seconded by Mr. Walker, to endorse the CPE's proposed criteria for allocating the funds (condition of facilities, institutional effort toward funding operations and maintenance of plant, and institutional implementation of a facilities maintenance standard) and to state that institutional matching funds should be required in order to access the state funds in the pool.

Noting that the "Court Facility Use Allowance Contingency Fund" was not included in the list of pools in the first section of this recommendation, Mr. Hintze said he thought this was appropriate because that fund is used for cost overruns on authorized projects rather than for maintenance projects.

Ms. Ingram said a decision needed to be made on whether to include in the second section of the recommendation two new assistance programs proposed in the capital plans – the Department for Local Government's Water Resources Incentive Program and the Department for Libraries and Archives' Public Library Facilities Program.

Mr. Hintze said he would not support inclusion of the library program at this time because it is not an established program, and they have an established priority in the archival area which needs to be the focus. In response to Mr. True's question about state assistance for libraries, Mr. Hintze said there is a minimal grant program and a program which provides funding on a per capita basis, but there is not a bond-funded capital construction program. This would be a change in policy.

Senator Worley said the Water Resources Incentive Program is different because of the state's emphasis on the regionalization of infrastructure for both sewer and water. This program would allow the state to work with communities toward this goal and would be very beneficial to rural Kentucky.

Mr. Hintze said the state has already invested significant resources in a Water Resources Development Plan. He added that CPAB has consistently pushed for coordination and cooperation across jurisdictional lines and this proposal is consistent

with that emphasis. Mr. Hintze said this is a quantum leap beyond the Kentucky Infrastructure Authority water and sewer programs which basically are reflections of local applications and federal fund availability; this is state sponsored and regional in its outlook.

Senator Worley said local governments currently must develop plans which involve regionalization and obtain Division of Water approval but no funding is available for that purpose. Ms. Howell suggested that the Board endorse the concept being proposed but not the specific program which was submitted by the Department for Local Government. Her motion was seconded by Senator Worley and approved.

Chairman Clark asked staff to distribute a proposed list of state-funded projects which the Board may wish to consider recommending; it is based on projects appearing on at least three of the lists submitted by the members. Chairman Clark said in the members' folders is a summary of all of the projects identified on their lists. Ms. Ingram stated that in some instances the term "project" is used to refer to multiple individual projects that were grouped together in the Chief Information Officer's recommendations (e.g., Radio Systems, Unified Criminal Justice System, and Personnel System). Chairman Clark opened the floor for discussion of the proposed recommendation.

Mr. True said he did not include new prisons on his list because he feels that, as Judge White has discussed in previous meetings, as long as prisons are being constructed, the state will not address the root causes of the problem. Mr. Hintze said the Board risks being irresponsible if it does not address the needs given population projections based on current laws and policies, while at the same time urging the use of alternatives where they are appropriate. He said the projections are being reviewed and may change based on recent trends.

Mr. True said he also felt the Eastern State Hospital (ESH) and Western State Hospital (WSH) projects should not be recommended until more information is available about future plans for the facilities. Mr. Hintze said he, too, would hesitate to endorse these specific projects until more is known about the future viability of the facilities. In response to Ms. Howell's concern about the length of time it would take to do the study, Mr. Hintze said emergency needs would be addressed if they arise in the meantime.

Mr. True's proposal that the ESH and WSH projects be deleted from the list and wording be added indicating the Board's reluctance to recommend such projects until completion of the Cabinet's study was accepted.

Mr. True said he would like for the Board to spend some time looking at programs that address quality of life issues, such as the PACE (Purchase of Agricultural Conservation Easements) program.



Mr. Walker said while the proposed research buildings at the University of Kentucky and the University of Louisville were submitted with 100% funding from state sources, the CPE has contacted both about the availability of other revenues to partially fund the projects. His request that a notation about this possible availability of other funds be added to the recommendation was accepted.

Mr. Hintze said this is not a comprehensive list of everything the Board would like to have addressed, but it still has a large price tag. He noted that the process had been somewhat complicated by others operating under calendars that ran parallel to the Board's, but the Board tried to obtain as much input as possible and the recommendations were based on a lot of information. His motion to approve the recommendation for projects to be financed from state funds, as modified, was seconded by Senator Worley and passed by voice vote.

Ms. Ingram said the last recommendation addresses projects proposed to be financed from other than state funds. She summarized the proposed recommendation as follows:

The Board recommends that the 2000-02 budget authorize all projects proposed by state agencies and universities to be financed 100% from Federal Funds, Restricted Funds, Other Funds, or Road Funds, with the following exceptions:

- u Projects which will require the expenditure of significant additional state funds for their operation and maintenance,
- u Projects which will commit the state to fund significant costs to complete the project after the available Federal Funds/Restricted Funds/Other Funds/Road Funds have been expended,
- u Restricted Funds or Road Funds should not be authorized for projects to such an extent that agency programs or operations also funded by that source would be jeopardized,
- u The top priority for the use of Restricted Funds of the higher education institutions should be projects to address life/safety and deferred maintenance needs for which state funds are not provided, and
- u A high priority for the use of Road Funds should be Transportation Cabinet projects to address life/safety and deferred maintenance needs.

Ms. Ingram said two specific projects - Kentucky Information Highway (KIH) Expansion Upgrade and reauthorization of the Transportation Cabinet Office Building -

are identified in the recommendation, because some members included them on their lists of recommended projects.

Ms. Ingram next directed the Boards' attention to another section entitled "Other Funds." Ms. Ingram said this section, which is a blanket endorsement of the projects proposed to be financed from "Other Funds", would not include court projects. This is because "Other Funds", as used for court projects are local bonds supported by state-funded use allowance payments. The Board considered court projects as part of the state-funded projects recommendation.

Ms. Howell's motion for approval of the recommendation on capital priorities proposed to be financed from other than state funds was seconded by Mr. Hintze and passed.

Chairman Clark announced that the complete *1998-2004 Statewide Capital Improvements Plan* would need to be approved at the next meeting in order to meet the statutory deadline of November 1. The next meeting was scheduled for Tuesday, October 26 at 1:00 PM.

Senator Worley's motion to adjourn was seconded by Ms. Howell, and the meeting was adjourned at 2:50 PM.